CHIEN-YU MICHAEL WANG (CAL. BAR NO. 265875)
RICHARD M. WILNER (CA BAR NO. 186879)
WILNER & O'REILLY, APLC
333 City Blvd. W., Suite 1918
Orange, California 92868
Telephone: 714.919.8880
Facsimile: 714 .919. 8881
Email: Michael@wilneroreilly.com
Email: Richard@wilneroreilly.com
Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

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| SOUHA JARAMANI, ANISS BREK, FADI BREK and HOUSAM BREK,<br><br>Plaintiffs,<br><br>vs.<br><br>UNITED STATES DEPARTMENT OF HOMELAND SECURITY; UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES; SAN FRANCISCO ASYLUM OFFICE; JOHN F. KELLY, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY; JAMES MCCAMENT, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES; and EMILIA BARDINI, IN HER OFFICIAL CAPACITY AS DIRECTOR OF THE SAN FRANCISCO ASYLUM OFFICE,<br><br>Defendants. | Case No.: 3:17-cv-02097<br><br>COMPLAINT FOR MANDAMUS AND DECLARATORY RELIEF |

## I. JURISDICTION AND VENUE

1. Plaintiffs invoke the jurisdiction of this court pursuant to 28 U.S.C. §1331 (federal question jurisdiction), this action arising under the Constitution and the laws of the United States, specifically: the Declaratory Judgment Act, 28 U.S.C. §2201; 8 U.S.C. §1158; 8 C.F.R 208; the Immigration and Nationality Act (INA) §208; the Mandamus Act, 28 U.S.C. §1361; and the Fifth Amendment to the U.S. Constitution. Jurisdiction is also invoked pursuant to 28 U.S.C. § 1361, this action being in the nature of a mandamus to compel officers and employees of an agency of the United States to perform duties owed to Plaintiff.

2. Venue is proper pursuant to 28 U.S.C. § 1391(e).

## II. PARTIES

3. Plaintiff SOUHA JARAMANI is a Syrian citizen, and is the principal applicant for asylum.

4. Plaintiff ANISS BREK is a Syrian citizen and husband of Souha Jaramani. He is a derivative beneficiary of his wife's asylum application as her husband.

5. Plaintiffs FADI BREK and HOUSAM BREK are Syrian citizens and sons of Souha Jaramani and Aniss Brek. They are derivatives of their mother's asylum application as her children.

6. Defendant USCIS is a federal agency within the United States Department of Homeland Security, and has a mandate pursuant to 8 U.S.C. §1103 to supervise, implement and enforce the Immigration and Nationality Act ("INA").

7. Defendant JOHN F. KELLY is Secretary of the Department of Homeland Security and is charged under 8 U.S.C. §1103 to administer and enforce the immigration and naturalization laws of the United States.

8. Defendant JAMES MCCAMENT is Acting Director of United States Citizenship and Immigration Services and is charged under 8 U.S.C. §1103 with supervising, implementing and enforcing the INA.

9. Defendant SAN FRANCISCO ASYLUM OFFICE is a field office of USCIS responsible for handling asylum applications and is charged under 8 U.S.C. §1158(b)(5)(A)(iii) with adjudicating an asylum application within 180 days from the date of filing.

10. Defendant EMILIA BARDINI is Director of the San Francisco Asylum Office with a duty to administer and enforce the INA.

## III. PROCEDURAL HISTORY

11. On or about November 28, 2014, Plaintiff SOUHA JARAMANI timely filed a Form I-589, Application for Asylum, based on her political opinion, religion, membership in a particular social group, and nationality. She is Druze. Plaintiffs ANISS BREK, FADI BREK, and HOUSAM BREK were included in said application.

12. The USCIS duly accepted application and scheduled interviews with Plaintiff.

13. On January 6, 2015, Plaintiff SOUHA JARAMANI subsequently attended an interview regarding her asylum application.

14. On January 15, 2015, Defendant San Francisco Asylum Office indicated that a decision would be mailed to Plaintiff. On information and belief, no decision has ever been made on the application.

15. On April 14, 2015, a follow up letter was mailed to Defendant San Francisco Asylum Office requesting an update on Principal Applicant's case; no response was ever received.

16. Finally, on March 17, 2017, a letter was sent to Defendant San Francisco Asylum Office advising this mandamus complaint would be filed if the application was not adjudicated within ten (10) days. No response was ever received.

17. Plaintiff has submitted all documentation required by regulation and statute to be submitted as a part of the application procedure.

18. Plaintiff has submitted to the USCIS all documentation sufficient to enable the USCIS to adjudicate Plaintiff's application for asylum.

19. Administrative remedies have been exhausted and/or are otherwise futile.

20. Plaintiff seeks an order in the nature of mandamus compelling the USCIS to adjudicate Plaintiff's application for asylum. Plaintiff does not seek to have the court determine the merits of Plaintiff's application, but only to compel the USCIS to follow its statutory and regulatory mandate.

## IV. CAUSE(S) OF ACTION

21. Paragraphs 1-20 are incorporated by this reference as though fully set forth herein.

22. This complaint is filed in accordance with the Administrative Procedures Act, 5 U.S.C. §702, the Declaratory Judgment Act, 28 U.S.C. §2201, and the Mandamus Act, 28 U.S.C. §1361 for Defendants' actions contrary to federal laws and procedures, including 8 U.S.C. §1158 and the Fifth Amendment of the Constitution.

23. Defendants have not adjudicated Plaintiff's asylum application within the 180 days as required by law under 8 U.S.C. §1158(b)(5)(A)(iii).

24. This delay is unreasonable.

25. The failure to reasonably timely adjudicate Plaintiff's application is caused by an office-wide pattern and practice of inefficiency, deliberate incompetence or willful misconduct.

26. As of this date, no reasonable explanation has been offered by the USCIS as to why this case has suffered an extended delay following the initial asylum application and two years since the interview was conducted.

27. Defendants' conduct in failing to adjudicate plaintiff's application in a reasonably timely manner is deliberately intended by defendants to cause unnecessary and injurious delays to plaintiff in violation of her rights as alleged herein. Defendants' conduct is also the product of a deliberate indifference to the rights of Plaintiff and similarly situated persons who are unable to define their residential status despite having a pending application and request for asylum for over two years.

28. Plaintiff has been denied due process of law under the terms of the Fifth Amendment to the United States Constitution by the defendants' neglect or refusal to take action to adjudicate her application.

29. There is no reasonable basis for Defendants' position, and it is not substantially justified under the law.

## V. ADMINISTRATIVE REMEDIES HAVE BEEN EXHAUSTED

30. Plaintiff does not have any administrative remedies available to her aside from the application process about which she is now complaining.

31. By indicating that a decision would be mailed to Plaintiff over two years ago, Plaintiff has no administrative remedy other than periodic inquiries to the Immigration Service. If her application for asylum is granted, she could proceed with an application for permanent resident status.

## VI. NO ADEQUATE REMEDY AT LAW

32. Since Plaintiff cannot appeal decisions that have not been rendered, and since federal law requires Plaintiff to follow the application process she is now following, and about which she is now complaining, Plaintiff has no adequate remedy at law to compel Defendants to adjudicate Plaintiff's I-589 application. Only relief in the nature of mandamus will protect the Plaintiff from Defendants' nonfeasance and misfeasance.

## VII. CLAIM FOR RELIEF

33. Plaintiffs are entitled to an order in the nature of a declaratory judgment finding Defendants' actions, as applied, are contrary to statutory and regulatory law. Plaintiffs are entitled to injunctive relief to prevent the INS from engaging in negligent or willful failure to adjudicate the I-589 applications in a reasonably timely manner, and to compel the USCIS to

adjudicate applications in the chronological order in which they are filed and apply the immigration laws and regulations in a nondiscriminatory manner, and cease its program of delay without explanation of the reasons for suspended adjudications and withholding of benefits.

34. Plaintiffs are entitled to an order in the nature of mandamus to compel Defendants to adjudicate Plaintiffs' I-589.

## VIII. PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for the following relief:

1. That judgment be entered ordering immediate adjudication of Plaintiffs' application for political asylum;
2. For reasonable attorneys' fees in amount according to proof; and
3. For any and all further relief determined by this Court to be in the interest of justice.

Dated: April 14, 2017

Respectfully submitted,

WILNER & O'REILLY, APLC

By: ______________________

RICHARD MICHAEL WILNER
CHIEN-YU MICHAEL WANG
ATTORNEYS FOR PLAINTIFF